

अण्डमान तथा
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No. 307, Port Blair, Tuesday, November 17, 2015

अण्डमान तथा निकोबार प्रशासन

ANDAMAN AND NICOBAR ADMINISTRATION
सचिवालय/SECRETARIAT

NOTIFICATION

Port Blair, dated the 17th November, 2015

No. 286/2015/F.No.3-409/2004-Labour.— In pursuance of Sub-Section (1) of Section 17 of the Industrial Disputes Act, 1947 (Act No. 14 of 1947) read with the Notification No. LR-1(59)/55 dated 13th December, 1955 of the Government of India, Ministry of Labour and A&N Administration's Notification No. 144/2008/ F.No.17-2/2007-Labour dated 7/10/2008, the Secretary (Labour), Andaman and Nicobar Administration, hereby orders for publishing the following Award given by the Labour Court, Andaman and Nicobar Islands, Port Blair against the reference made to the Industrial Tribunal for adjudication vide Administration's Notification No. 3-409/2004-Labour dated 10/02/2009 in the matter of an Industrial Dispute between the workman Miss G. Sajitha and Chief Engineer, APWD, over alleged termination of service has failed.

IN THE COURT OF THE PRESIDING OFFICER
LABOUR COURT
ANDAMAN AND NICOBAR ISLANDS, PORT BLAIR

I.D. CASE No. 03/09

PRESENT : SHRI SUDIP NIYOGI
JUDGE, LABOUR COURT
ANDAMAN AND NICOBAR ISLANDS
PORT BLAIR

Smti. G. Sajitha

First Party

-Versus-

The Chief Engineer, A.P.W.D., Port Blair
DATE : 09.10.2015

Second Party

JUDGEMENT

The following schedule of reference have been made for adjudication under Section 12 (4) of the Industrial Disputes Act, 1947 by the A & N Administration on 10th February, 2009 in exercise of the powers conferred under Sub-Section (1) of Section 10 read with Sub-Section (5) of Section 12 and Sub-Section (2-A) of Section 10 of the Industrial Disputes Act, 1947 read with the Notification No. LR-1(59)/55 dated 13th December, 1955 of the Government of India, Ministry of Labour, dated 07/10/2008 of the A & N Administration.

SCHEDULE OF REFERENCE

"Whether the action of the employer, Chief Engineer, Andaman Public Works Department (APWD) in not giving a regular appointment/temporary status to Miss G. Sajitha, represented by the Independent APWD Workers Union is legal and justified? If not, what relief the workman is entitled to?"

The case of the First Party workman is that she was engaged as a Daily Rated Mazdoor and worked under the Second Party from 1st August, 1999 till 30th April, 2002 with artificial break for the job of typist, computer operator, stenographer etc. in different divisions. This way she completed more than 240 days of continuous service under the Second Party. But thereafter, she was illegally terminated on 1st May, 2002 without following the provision of Section 25(F), (G) and (N) of the Industrial Disputes Act, 1947.

She made several representations to the Second Party for her reinstatement but her request was not complied with though many other workmen who are juniors to her were regularized by the Second Party. The conciliation proceedings conducted on her dispute also ended in failure.

So, by filing her statement of demands she prayed for setting aside the impugned order of illegal termination by the Second Party and for her reinstatement on regular scale of pay with back wages.

Be it noted here that the Second Party did not appear and filed any written objection.

FINDINGS

In this case, what I find, the First Party examined herself as PW-1 and she produced one document which is found to be copy of the findings of conciliation proceeding. However, she did not examine any other witness(s) nor produced any document on her behalf to buttress her claim. She is also found to have been absent for several consecutive dates, following which the case was fixed for passing order.

Now, coming to her evidence, it is found that she claimed to have worked under the Second Party as Daily Rated Mazdoor from 1st August, 1999 to 30th April, 2002 with artificial break and by this way she had completed more than 240 days of continuous service.

In the report of conciliation proceeding (Exhibit-1), it has been noted that the concerned union representing, the First Party claimed her to have worked from 1st August, 1999 to May, 2004. This means she had worked with the Second Party even after the alleged order of termination of her service. It is also found that no document say, copy of muster roll or attendance sheet etc. has been produced by her.

No explanation about this anomaly so far as the actual period of work done by the First Party under the Second Party is forthcoming from the First Party.

If, her contention as made out during the conciliation proceeding is accepted, her allegation of being terminated on 1st May, 2002 by the Second Party as made out in her statement of demands as well as in her affidavit, falls through.

No such order about her termination has been produced.

This apart, so far as her claim of reinstatement on regular Scale of Pay is concerned, no document, whatsoever, is produced to justify her demand.

That being so, I think, First Party has failed to prove her allegation that the Second Party acted in an illegal manner.

The action of the Second Party, therefore, cannot be said illegal and unjustified.

Hence, it is

Ordered

That the action of the Chief Engineer, Andaman Public Works Department (APWD) in not giving a regular appointment / temporary status to the First Party (Mrs. G. Sajitha) is legal and justified.

The claim of First Party is also dismissed.

Let a copy of the award be forwarded to the Lt. Governor, A & N Islands for information and due publication in the Official Gazette.

Dictated and corrected by me.

Sd./-
(Sudip Niyogi)
Presiding Officer
Labour Court, Port Blair

By order of the Secretary (Labour),

Sd.-
(S.S. Chander Sekhar)
Assistant Secretary (Lab.)